



STATE OF MICHIGAN  
JOCELYN BENSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

June 10, 2022

**NOTICE OF FILING**

**ADMINISTRATIVE RULES**

To: Secretary of the Senate  
Clerk of the House of Representatives  
Joint Committee on Administrative Rules  
Michigan Office of Administrative Hearings and Rules (Administrative Rule #21-100-ED)  
Legislative Service Bureau (Secretary of State Filing #22-06-02)  
Department of Education

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2021-100-ED (Secretary of State Filing #22-06-02) on this date at 1:53 P.M. for the Department of Education entitled, "Superintendent to Public Instruction Hearings".

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,

Jocelyn Benson  
Secretary of State

*Sue Sayer /CK*

Sue Sayer, Departmental Supervisor  
Office of the Great Seal

Enclosure



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

ORLENE HAWKS  
DIRECTOR

June 10, 2022

The Honorable Jocelyn Benson  
Secretary of State  
Office of the Great Seal  
Richard H. Austin Building – 1<sup>st</sup> Floor  
430 W. Allegan  
Lansing, MI 48909

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules  
Administrative Rules #: 2021-100 ED

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated May 26, 2022 for the Department of Licensing & Regulatory Affairs “**Superintendent of Public Instruction Hearings**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

Michigan Office of Administrative Hearings and Rules



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

GRETCHEN WHITMER  
GOVERNOR

MICHAEL F. RICE, Ph.D.  
STATE SUPERINTENDENT

CERTIFICATE OF ADOPTION

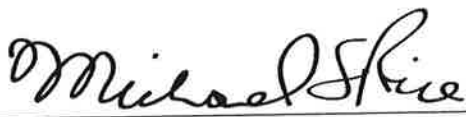
2021-100 ED

SUPERINTENDENT OF PUBLIC INSTRUCTION HEARINGS

Pursuant to the authority conferred on the superintendent of public instruction by section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, and Executive Reorganization Order No. 1996-6, MCL 388.993, the superintendent of public instruction formally adopts the rule entitled "Superintendent of Public Instruction Hearings."

R 349.291 of the Michigan Administrative Code is amended.

Date: 06/02/2022

Adopted by:   
Michael F. Rice, Ph.D., Superintendent of Public Instruction

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STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

## LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated May 26, 2022, in which the Department of Education proposes to modify a portion of the Michigan Administrative Code entitled "**Superintendent of Public Instruction Hearings**" by:

- ◆ Amending R 349.291.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: May 31, 2022

Michigan Office of Administrative Hearings and Rules

By: *Emily Leik*

Emily Leik,  
Attorney

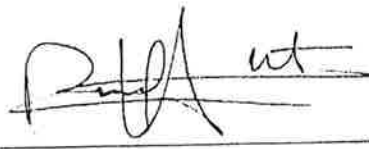
CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Education dated May 26, 2022, amending R 349.291 of the Department's rules entitled "Superintendent of Public Instruction Hearings." I approve the rules as to form, classification, and arrangement.

Pursuant to section 44(1) of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.244(1), these rules are being processed without a public hearing.

Dated: May 27, 2022

LEGISLATIVE SERVICE BUREAU

By   
Rachel M. Hughart,  
Legal Counsel

DEPARTMENT OF EDUCATION  
SUPERINTENDENT OF PUBLIC INSTRUCTION  
SUPERINTENDENT OF PUBLIC INSTRUCTION HEARINGS

Filed with the secretary of state on June 10, 2022

This rule takes effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By the authority conferred on the superintendent of public instruction by section 33 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, and Executive Reorganization Order No. 1996-6, MCL 388.993)

R 349.291 of the Michigan Administrative Code is amended as follows:

R 349.291 Procedure for conducting hearings before the superintendent of public instruction.

Rule 1. (1) The superintendent of public instruction or designee shall send a notice of hearing before the superintendent of public instruction or designee to all interested parties by certified mail, return receipt requested. The notice of hearing must state the date, time, and place of the hearing, the manner in which the superintendent of public instruction or designee will conduct the hearing, including, but not limited to, an in-person format or a virtual format, the issues involved, and the reasons for holding the hearing. The superintendent of public instruction or designee shall send the notice of hearing at least 20 days before the date scheduled for the hearing. Unless indicated otherwise in the notice of hearing, the superintendent of public instruction or designee shall hold the hearing in the offices of the superintendent of public instruction in Lansing, Michigan.

(2) A person may appear at a hearing under this rule in person, by a duly authorized representative, or by counsel.

(3) A person who receives a notice of hearing under this rule may do 1 or both of the following:

(a) At least 10 days before the date of the hearing, file with the superintendent of public instruction or designee, and serve on all interested parties, a written answer to the notice of hearing or a brief addressing the issues identified in the notice of hearing.

(b) At the hearing, present an oral statement addressing the issues identified in the notice of hearing.

(4) If a person to whom the superintendent of public instruction or designee sends a notice of hearing under this rule fails to appear at the hearing, the superintendent of public instruction or designee may proceed with the hearing and issue a decision based on the evidence presented.

(5) A person requesting a hearing before the superintendent of public instruction shall file in writing with the superintendent of public instruction, and shall serve on all

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interested parties, a statement of the reasons for the request and a fair and accurate statement of the relevant facts. An interested party may file with the superintendent of public instruction a written response to the statement of the reasons for the hearing and the statement of facts and shall serve the response on all interested parties.

(6) A motion for adjournment of a hearing under this rule must be in writing and must state the reasons why an adjournment is necessary. The moving party shall file the motion for adjournment with the superintendent of public instruction or designee not less than 5 days before the scheduled hearing unless the superintendent of public instruction or designee finds good cause for filing the motion at a later date.

(7) The parties to a hearing under this rule may, by a stipulation in writing filed with the superintendent of public instruction or designee, agree on the facts or any portion of the facts involved in the matter.

(8) The parties to a hearing under this rule may submit evidence in the form of depositions if the superintendent of public instruction or designee finds that it is impractical or impossible to obtain the evidence in another manner. If the superintendent of public instruction or designee allows depositions, MCR 2.301 to 2.308 and MCR 2.315 apply.

(9) As used in this rule:

(a) "File" means to send by mail, email, or facsimile or deliver in person. For purposes of filing under this rule, the address for mail and personal delivery is: Office of Administrative Law, Michigan Department of Education, P.O. Box 30008, 608 W. Allegan Street, Lansing, MI 48909. The email address is: MDE-SuperintendentAppeals@michigan.gov, and the facsimile number is: 517-241-6987.

(b) "Person" means an individual, partnership, association, corporation, limited liability company, limited liability partnership, governmental subdivision, or public or private organization of any kind.

(c) "Serve" means to send by mail, email, or facsimile or deliver in person.

(10) This rule is subject to Executive Reorganization Orders No. 2005-1, 2011-4, and 2019-1, MCL 445.2021, 445.2030, and 324.99923.

FILED WITH SECRETARY OF STATE

ON 6/10/22 AT 1:53 P.M.